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September 5, 2023

**VIA ECF**

Honorable Denis L. Cote  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: Minden Pictures, Inc. v. Seeking Alpha Inc.**  
**Case No.: 23-cv-5080 (DLC)**

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Dear Judge Cote:

I represent the plaintiff Minden Pictures, Inc. (“Plaintiff”) in this copyright infringement matter against the defendant Seeking Alpha Inc. (“Defendant”). . The proposed amended complaint is attached hereto.

The proposed amended complaint adds two photographs that Defendant used without Plaintiff’s permission. These two photographs were reproduced, distributed, publicly displayed, and used in the creation of derivative works by Defendant on the website owned or controlled by Defendant, namely, [www.seekingalpha.com](http://www.seekingalpha.com).

Under Rule 15(a) of the Federal Rules of Civil Procedure, “[t]he court should freely give leave” to a party to amend its complaint “when justice so requires.” Fed. R. Civ. P. 15(a)(2). “Leave may be denied ‘for good reason, including futility, bad faith, undue delay, or undue prejudice to the opposing party.’” *TechnoMarine SA v. Giftports, Inc.*, 758 F.3d 493, 505 (2d Cir. 2014) (quoting *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007)). An amendment would be futile if the amended complaint “could not withstand a motion to dismiss.” *Balintulo v. Ford Motor Co.*, 796 F.3d 160, 164–65 (2d Cir. 2015) (quoting *Lucente v. IBM Corp.*, 310 F.3d 243, 258 (2d Cir. 2002)).

Here, Plaintiff seeks to add additional photographs to existing copyright infringement claims between the same parties. The efficient administration of justice would require that all of

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Plaintiff's copyright claims against Defendant be litigated in the same case. There is no surprise, delay or undue hardship to Defendant from the proposed amendment. No scheduling order has been entered. The parties have yet to begin discovery in this case. Nor would leave to amend be futile because the facts contained in the amended complaint, accepted as true, establish liability and damages for the eighteen photographs.

Thank you for consideration of this letter motion.

Respectfully submitted,

/s/ R. Terry Parker

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